

# News Release



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## **Labor Department Settles Lawsuit with Fiduciaries Of Bankrupt Ohio Industries Retirement and Health Plans**

**CINCINNATI** – The U.S. Department of Labor obtained a consent judgment and order on Nov. 25, against the fiduciaries of bankrupt Ohio Industries of Bucyrus, Ohio, ordering termination of the company's retirement and health plans as soon as the fiduciaries repay the plans for losses resulting from their use of the plan's assets to fund the company's general operating expenses.

"Plan officials have a duty to manage and protect benefit plans and their assets so that promised benefits can be provided to employees," said Joseph Menez, Regional Director of the Cincinnati regional office in the department's Employee Benefits Security Administration (EBSA), which conducted the investigation.

Under the order, John P. Rice, Molly Rice and David Egner, fiduciaries of the company's retirement and health plans, waived their rights to their individual account balances in the retirement savings plan to immediately repay a portion of the \$34,074.09 due to the plan, and agreed to repay the balance owed to the savings plan by Aug. 26, 2004. Molly Rice agreed to advise the asset custodian to credit sums to the accounts of non-fiduciary participants of the savings plan on a pro rata basis and to notify these same persons. The Rices agreed to repay \$8,026.17 due to health plan participants by Aug. 26, 2004.

John Rice was barred permanently from serving in any fiduciary capacity to any plan governed by the Employee Retirement Income Security Act (ERISA). Once the savings plan is terminated, Molly Rice will be barred permanently from serving in any capacity to ERISA-covered plans.

The department's lawsuit, filed Jan. 9, 2003, in federal district court in Cleveland, alleged that the fiduciaries failed to remit employee contributions and loan repayments to the savings plan and failed to remit employee contributions and COBRA payments to the health plan. They also allegedly failed to secure a fidelity bond for the savings plan, as required by ERISA.

Ohio Industries, the company resulting from the June 30, 1999 merger of the Ohio Locomotive Crane Co. and Plymouth Industries, is in Chapter 7 bankruptcy. As of March 31, 2001, the Ohio Locomotive Crane Co., Inc. Savings Investment Plan had \$1,964,061 in assets. The savings plan covered as many as 177 employees.

Employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to make workers whole but allows them to avoid EBSA enforcement actions, civil penalties and applicable excise taxes. For more information, see [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

Employers and workers can contact the Cincinnati office at (859) 578-4680 or EBSA's toll free number at **1-866-444-EBSA (3272)** for help with any problems relating to private-sector retirement and health plans.

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(Chao v. Rice) Civil Action No. 1:03CV0066

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